

Serial No. 10/070,084  
Docket No. PU3517Usw  
Reply to Office Action of October 9, 2003

### Remarks

Claims 1 and 8 have been canceled from the present application without prejudice to the refiling of the claims in a continuation application. Claims 2, 3, 4, 5 and 9 have been amended to remove the dependency on canceled claims. Claims 2 - 7, 9 - 30, 34 - 36, and 38 - 55 are pending. In response to the restriction requirement mailed October 9, 2003, Applicants provisionally elect Group I with traverse. The instant application is filed under 36 U.S.C. § 371, and accordingly the unity of invention standards under PCT Rule 13 are applicable. PCT Rule 13.3 requires that the determination of the existence of unity of invention be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. Applicants respectfully note that the International Examining Authority found that the requirements for unity of invention were met by the instantly pending claims, and that under unity of invention practice, unlike U.S. restriction practice, the scope of the search is not a basis on which a rejection for lack of unity can be issued.

The restriction imposed by the Examiner with respect to Groups I, II and III is not among different claims, but rather within the Markush groups defining variables of the claimed compounds. Further, claims subject to the restriction requirement are generic, i.e. the claims of Examiner's group I are also in Examiner's groups II and III.

Applicants respectfully submit that, with regard to Groups I, II and III, the restriction requirement is improper because the inventions of Groups I, II, and III are so linked as to form a single general inventive concept pursuant to PCT rules 13.1 and 13.2, because the compounds of formula (I), claims 2 - 7, 9 - 14, 17-20, 23 - 36, 38 - 55 share the same core structure, and are useful in the treatment of HIV infections.

Furthermore Applicants respectfully submit that the restriction requirement is improper because pending Claims 14 and 38 are apparently not subject to restriction, while claim 6 from which they depend is grouped in Group I. Claim 44 is grouped in both Groups I and II, but claim 44 depends from claim 7, which is only in Group I. Claim 45 is in both Groups I and II, and depends from claim 17 which is in both Groups I and II, but in both claim 17 and 45, R<sup>3</sup> is hydrogen and R<sup>4</sup> is C<sub>6-14</sub>aryl, whereas the Examiner has stated that Group I compounds are compounds of formula (I) wherein R<sup>3</sup> and R<sup>4</sup> are not a heterocycle and Group II compounds are compounds of formula (I) wherein R<sup>3</sup> or R<sup>4</sup> is a heterocycle. Likewise, claim 46, in which R<sup>3</sup> is hydrogen and R<sup>4</sup> is C<sub>6-14</sub>aryl is grouped in both Groups I

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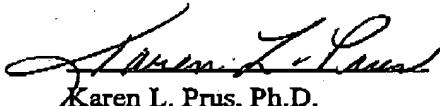
and II. Group IV (claims 21, 22, 23, 49, 51, 53, and 55) is drawn to compounds of formula IV, but claim 23 and claims 49, 51, 53, and 55 that depend from claim 23 do not claim any compounds of formula IV.

Applicants suggest modification of the restriction requirement as follows: Group I: claims 2 - 7, 9 -14, 17-20, 23 - 36, 38 - 55 drawn to compounds of formula (I); Group II claims 15 and 16 drawn to compounds of formula (II); Group III: claims 21 and 22 drawn to compounds of formula (IV).

Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the outstanding restriction requirement.

Respectfully submitted,

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Karen L. Prus, Ph.D.  
Attorney for Applicant  
Reg. No. 39,337

GlaxoSmithKline  
Corporate Intellectual Property Department  
Five Moore Drive, P.O. Box 13398  
Research Triangle Park, NC 27709  
Tel: (919) 483-2192  
Fax: (919) 483-7988